

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TIMOTHY E. LANDO, Jr.,

Plaintiff,

vs.

**9:18-CV-1472
(TJM/TWD)**

ANTHONY ANNUCI, et al.,

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge Thérèse Wiley Dancks for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that the Defendants, personnel in the New York State Department of Corrections and Community Supervision (“DOCCS”), violated his constitutional rights by imposing parole conditions that were arbitrary and capricious.

Magistrate Judge Dancks’s Report-Recommendation, dkt. # 73, issued on March 4, 2021, recommends that the Court grant Defendants’ motion to dismiss, dkt. # 58, in part and deny that motion in part. Magistrate Judge Dancks finds that Plaintiff’s claims for injunctive relief against the Defendants are not ripe because he is incarcerated and not yet subject to the conditions. She recommends the Court grant the Defendants’ motion in

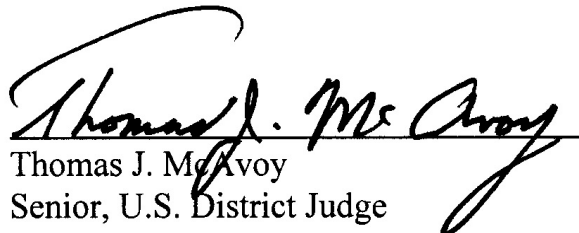
that respect. Magistrate Judge Dancks finds, however, that the Court should deny the motion with respect to the claims for which the Defendant seeks damages. Defendants had alleged that they were entitled to qualified immunity for such claims but had not otherwise argued that Plaintiff failed to state a claim. Judge Dancks disagreed with Defendants' qualified immunity argument and recommended that the Court deny the motion in this respect.

No party objected to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

The Report-Recommendation of Magistrate Judge Dancks, dkt. # 73 is hereby **ACCEPTED** and **ADOPTED**. The Defendants' motion to dismiss, dkt. # 58, is hereby **GRANTED** in part and **DENIED** in part. Plaintiff's claims for injunctive relief against Defendants Annucci, Gilbert, Moss, Palmer, and Montfort-Balfour are hereby **DISMISSED**. The motion is **DENIED** in all other respects.

IT IS SO ORDERED.

Dated: March 24, 2021


Thomas J. McAvoy
Senior, U.S. District Judge